

Senator Stephens offered the following amendment :

Add to the caption, " And attach certain counties therein named for judicial purposes."

Adopted.

The bill was then ordered engrossed.

Senator Stephens moved a further suspension of the rules to place the bill on its third reading.

Carried, by the following vote :

YEAS—Senators Ball, Blassingame, Brady, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Terrell, Thompson, Wortham—26.

NAYS—None.

NOT VOTING—Senators Brown, Grace, Guy, McCormick, McCulloch—5.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Motley, Ripetoe, Smith, Stephens, Storey, Wortham—25.

NAYS—None.

NOT VOTING—Senators Brown, Grace, McCormick, Piner, Terrell, Thompson—6.

On motion of Senator Blassingame, Sidney Shepherd, page, was excused for the day.

Senator Ford, by leave, introduced a bill, entitled, " An Act to provide annual pensions for the surviving soldiers and volunteers of the Texas Revolution and the surviving signers of the Declaration of Texas Independence, and the surviving widows of such soldiers, volunteers and signers."

Read by caption, and referred to Judiciary Committee No. 2.

Senator Wortham, by leave, submitted the following report.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Public Printing, to whom was referred the communication of J. D. Elliott, tendering his resignation as Public Printer, and asking that his contract be rescinded, have considered the same, and instruct me to report the same back and recommend that the "resignation of J. D. Elliott, as Public Printer, be received and his contract rescinded."

WORTHAM, *Chairman.*

The report of committee adopted.

On motion of Senator Francis, the Senate adjourned until to-morrow morning, at 9 o'clock.

SIXTIETH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, June 27, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

The journal of yesterday adopted.

Senator F. M. Henry, from Judiciary Committee No. 1, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

The undersigned member of Judiciary Committee No. 1, to whom was referred Senate Bill No. 126, "An Act to fix the time of holding the biennial sessions of the Legislature," begs leave to make this minority report, in which he says that he cannot agree with the majority of said committee, because in his opinion this is the regular biennial session of the Fifteenth Legislature, and the only session that can be held under the Constitution until after the first Tuesday after the first Monday in November, A. D. 1878, unless convened by the Governor in extraordinary session.

F. M. HENRY.

Senator Carroll, Chairman of Committee on Comptroller's and Treasurer's Department, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Comptroller's and Treasurer's Department, to whom was referred Resolution No. 296, "requiring the Comptroller and Treasurer to report if there is on file in their respective offices any claims which were omitted and neglected to be examined and reported on by the Auditor and Comptroller under the provisions of certain acts," approved March 20, 1848, and February 7, 1853, have had the same under consideration, and instruct me to report it back with the recommendation that it do pass.

CARROLL, *Chairman.*

Senator J. R. Henry, Chairman of Committee on Public Claims and Accounts, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Public Claims and Accounts, to whom was referred Joint Resolution No. 301, "Providing for the auditing of certain claims for cotton against the State," have had the same under consideration, and recommend that it do not pass.

J. R. HENRY, *Chairman.*

Senator Smith, from Judiciary Committee No. 2, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 299, entitled, "An Act to provide for the detection and conviction of all forgers of land titles," have had the same under consideration, and have instructed me to report the same back to the Senate, and recommend its passage, with the following amendment:

In Section 5, line 10, strike out all of the section after the word, "of," and insert in lieu thereof, the following: "Travis county, in this State, or in the county where the offense was committed, or in the county where the land lies about which the offenses in this act were committed."

SMITH, *for Committee.*

Senator Piner, Chairman of Judiciary Committee No. 2, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 288, entitled, "An Act to provide for the guardianship of persons and estates of minors, persons of unsound mind and habitual drunkards," have had the same under consideration, and beg leave to report it back, and recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 300, entitled, "An Act to fix the time of holding the District Court of the Eighteenth Judicial District of the State of Texas," have had the same under consideration, and beg leave to report it back, and recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 237, entitled, "An Act to regulate proceedings in the County Court relating to guardians and wards," have had the same under consideration, and beg leave to report it back, and recommend that it do not pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 298, entitled, "An Act to provide for the change of venue by the State in criminal cases," have had the same under consideration, and instruct me to report the same back to the Senate and recommend its passage.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 253, entitled: "An Act to repeal Section 7 of 'An Act to provide for the mode of trying titles to lands,'" have had the same under consideration, and beg leave to report it back, and recommend that it do not pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 270, entitled, "An Act to amend Section 136 of 'An Act to regulate proceedings in the District Courts,' approved May 13, 1846," have had the same under consideration, and beg leave to report it back, and recommend that it do not pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 194, entitled, "An Act to protect women from slander and libel," have had the same under consideration, and beg leave to report it back and recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 181, entitled, "An Act concerning depositions taken out of the State," have had the same under consideration, and beg leave to report it back and recommend that it do not pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 52, entitled, "An Act to repeal Section 27 of an act amendatory of an act supplemental of 'An Act authorizing the sale of University lands,'" approved April 8, 1874, have had the same under consideration, and beg leave to report it back and recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 294, to be entitled, "An Act to repeal 'An Act to provide for the registration of births,'" have had the same under consideration, and respectfully recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 305, to be entitled, "An Act to provide annual pensions for the surviving soldiers and volunteers of the Texas Revolution and the surviving signers of the Declaration of Texas Independence," have had the same under consideration, and respectfully recommend that it do pass.

PINER, *Chairman.*

Senator Storey, from Judiciary Committee No. 1, submitted the following minority report:

Hon. R. B. Hubbard, President of the Senate:

I cannot agree with the report of the majority of Judiciary Committee No. 1, who recommended the passage of Senate Bill No. 126, "An Act to fix the time of holding the bi-ennial sessions of the Legislature the State of Texas," for the following reasons:

First—I believe this to be the only regular session contemplated by the Constitution for the Fifteenth Legislature, and any other session must be either an extraordinary session, convened by the Governor, or an adjournment of this session to a future day, and when so adjourned, it of course would be a part of this, the regular session, and not a new and distinct session of this Legislature, and if this and the adjourned session together, hold for more than ninety days, our per diem could be but two dollars per day for all over ninety days.

It will not be denied by any one that one of the principal, if not prime reason for calling the late Constitutional Convention, was to secure an economical government, and one of the greatest evils complained of was frequent sessions of the Legislature, and so prominent was this idea in the minds of the members of the Convention, we find that early in the session, as shown by the journals of the Convention, a proposition was submitted by Mr. Martin of Hunt, now an honored Senator on this floor, in these words, viz.: "That after the adoption of this Constitution, the two first sessions of the Legislature shall be bi-ennial, the first session limited to ninety days, and the second to sixty days; and thereafter, the Legislature shall meet in regular session once only in every four years, except when the Legislature shall be convened in extra session by the Governor, which extra session shall be limited to thirty days; and when so called, the Legislature shall act upon no measure or measures except such as may be recommended by the Governor."

A few days afterward Mr. Gennan presented the following:

"The members of the House of Representatives shall be chosen by the qualified electors, and their terms of office shall be two years from the date of the general election, and the regular sessions of the Legislature shall be once only in every two years, and of no more than sixty days duration."

Both of these and several other similar resolutions were referred to the Committee on the Legislative Departments, and in the course of time the committee reported the following:

"The Legislature shall meet every two years at such times as may be prescribed by law, and at other times when convened by the Governor.. The first session under this Constitution shall convene on the — day of —, 1876."

This was amended by striking out all after the word Governor, and Section 5, Article 3, of the Constitution was formed. Again, at a later day in the session, Judge Ferris, an eminent lawyer and able member of the Convention, submitted the following :

"SEC. —. No money shall be drawn from the Treasury but in pursuance of specific appropriation made by law, nor shall any appropriation of money be for a longer time than two years."

Several days afterwards, Mr. Brown of Dallas offered the following amendment :

Add to Section 6 : "Except by the First Legislature to assemble under this Constitution, which may make the necessary appropriation to carry on the government until the assembling of the Sixteenth Legislature."

This amendment was adopted, and thus Section 6, Article 8, of the Constitution was formed.

I submit that these extracts are sufficient to show that the Convention recognized the demands of the people to do away with frequent sessions of the Legislature, and in order that no harm should result from a longer vacation than two years, the Fifteenth Legislature is permitted to make an appropriation to carry on the government until the session of the Sixteenth Legislature, which cannot assemble, as we all agree, until after November, 1878, or two and a half years.

Again, I refer the Senate to Section 24, Article 3, of the Constitution, which, in substance, provides that at the first session of the Legislature held under this Constitution, the members may receive five dollars per day for ninety days, and two dollars per day for the remainder of the session, and for all subsequent sessions of five dollars per day for sixty days, and two dollars per day for the remainder of the session.

But it is contended by those who favor the views of the majority of the committee, that this is an extraordinary session of the Legislature, and that at this session we must provide for the meeting of the regular biennial session of the Fifteenth Legislature, and that the biennial session of the Sixteenth Legislature must be exactly two years from that date—no more nor no less. If this is true, when we once fix the time for the biennial sessions of the Legislature, it can never be changed except by an amendment to the Constitution. Such a thing was certainly never contemplated by the Convention.

And if we should be so fortunate as to complete all the necessary legislation at this session of the Legislature, this extreme, strict construction of the instrument will require us to go through the foolish, expensive and shameful formality of assembling here next April, with nothing to do but to draw our mileage, and thus insult the good sense of our constituents, return home, and congratulate ourselves that we

"Marched up the hill,
And then marched down again."

I am clearly of the opinion that the ordinance of the Convention, under which we assembled here, must be construed to prefix, so to speak, to our terms the time from the date of our election, on the fifteenth day of February last, to the first Monday in November, 1876. So the Fif-

teenth Legislature was, like all county officials, in fact elected for nearly three years instead of two years, and we are not on duty before our terms begin, as some seem to think; and because we were elected for a longer period than two years, and because it was contemplated by the Convention that we might have no other session until the Sixteenth Legislature assembled, we are permitted to draw full pay for ninety days, to enable us to get through with all necessary legislation, and to make an appropriation for a longer period than two years.

I might rest my case here with perfect safety; but for fear some may think we are without a precedent to sustain the position taken, I beg to remind Senators that this is no new question in Texas. The Constitution of 1845 provided in Section 5, Article 3, "that the sessions of the Legislature shall be biennial, at such times as shall be prescribed by law." This very language was re-enacted in Section 4, Article 3, of the Constitution of 1866; while the present Constitution retains the same idea in Section 5, Article 3, in this language: "The Legislature shall meet every two years, at such times as may be provided by law, and at other times, when convened by the Governor;" and as the last Convention borrowed that clause from the Constitution of 1866, so they borrowed the following ordinance from the Convention of 1866:

ORDINANCE NO. 3.

"SEC. 2. *Be it further ordained*, That the officers elected under this ordinance shall hold their respective offices from the date of their installation to the first Monday in August, 1866, and thereafter, for the full term prescribed by law, as if elected on said first Monday. * *

"SEC. 3. *Be it further ordained*, That the Legislature of the State of Texas, shall meet at the seat of the government thereof, and begin their session on the first Monday in August, A. D. 1866," and thus time was prefixed to the terms of the officers elected under the Constitution of 1866. And when that Legislature assembled, Mr. Smith of Harris, a member of the Judiciary Committee, submitted the following resolution:

"WHEREAS, It is by law (O. & W. Dig., Art. 1317), that the Legislature of the State of Texas shall meet at the seat of government, and begin their next biennial session on the first Monday in November 1849, and biennially thereafter, on the same day, until otherwise provided by law; and

"WHEREAS, By the law now in force above recited, the next regular biennial session of the Legislature will commence on the first Monday in November, A. D. 1867; therefore be it

"*Resolved*, That the Committee on Judiciary be, and they are instructed, to enquire whether any action of the Legislature is needed to establish or alter the time for holding the regular biennial sessions of the Legislature, and to report by bill or otherwise."

Upon which the committee reported as follows, viz:

* * * "The regular biennial sessions of the Legislature, as at present established by law, are required to begin on the first Monday of November, and biennially thereafter, until otherwise provided by law; consequently the regular session now in force would take place, unless otherwise provided by law, in 1867, 1869, 1871, and so on. The term of office of the Governor, as prescribed in the Constitution of the State now in force, will expire in 1870, in 1874, and so on. The convenience, and

indeed, necessity, of providing that the gubernatorial term should commence and expire in connection with the sessions of the Legislature, are obvious. As the gubernatorial terms are fixed in the Constitution, and cannot be altered by law, it only remains to make the legislative sessions harmonize with the gubernatorial term. Your committee, therefore, report the following bill and recommend its passage."

This bill became the law, and is found on page 111 of the laws of 1866. Under this law, and the ordinance quoted, the members of the Legislature of 1866 held their offices from June, 1866, until August, 1868, and the next session of the Legislature did not convene until October, 1868, two years and two months after the Legislature of 1866 convened.

I submit, then, that both reason and precedent sustains our position that this is the only regular session the Fifteenth Legislature can ever have. And this view of the case leaves us with the plain duty of fixing the time for the regular biennial sessions of the future Legislatures. Ours was fixed by the Constitution and ordinances of the Constitutional Convention.

Respectfully,

L. J. STOREY.

I concur in so much of the foregoing report as opposes the passage of the bill fixing the time of holding the biennial session of Legislature in January, 1877, and concur in the opinion that the time should be fixed at some date after November, 1878.

EDWIN HOBBY.

Senator Carroll offered the following resolution:

Resolved, That Judiciary Committee No. 1 be instructed to inquire whether the term ninety days, as used in Article 3, Section 24, of the Constitution, means to include Sundays and other holidays, or whether it means ninety days of actual session."

Adopted.

Senator Brady introduced a bill, entitled, "An Act to protect the navigation of the navigable bayous and rivers of the State."

Read by caption and referred to Judiciary Committee No. 1,

A message was received from the House announcing the passage by that body of Senate Bill No. 140, "An Act to provide for filling vacancies in the office of District Clerk and Constables;" also, that the House refused to recede from its amendments to substitute to Senate Bills Nos. 73, 74 and 86, "An Act to define the duties of County Attorneys, and regulate the performance of the same," and has appointed Messrs. Rainey, Chesley, and Kinnison a Committee of Conference on the part of the House, and asked a like committee on the part of the Senate; and that the House concurred in the following Senate amendments to House Bill No. 64½, "An Act to organize Commissioners' Courts, and define their jurisdiction and duties:" Amendments to Sections 6, 8, 12, 17 and 21, and additional sections reported by the Senate; and refused to concur in the Senate amendments to Sections 5, 10, 11, 13, 15, 18 and 20.

The House has appointed Representatives Jones of McLennan, Allison and Rust a Committee of Conference on the part of the House on the disagreement between the two Houses on Senate amendments to substitute for House Bills Nos. 121 and 122, "An Act to amend Section 41 and repeal Section 42 of 'An Act to establish a criminal code for the State of Texas,' " etc.

The President, after publicly reading its caption, signed Senate Bill.

No. 140, "An Act to provide for filling vacancies in the office of District Clerk and Constable," which had duly passed both Houses.

Senator Stephens, Chairman Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills have carefully read, examined and compared the following Senate bills and find them correctly engrossed:

Senate Bill No. 114—"An Act to authorize District Judges to remove county officials."

Senate Bill No. 115—"An Act to amend Section 2 of an act entitled, 'An Act prescribing the mode of service in certain cases,' approved March 15, 1875."

Senate Bill No. 113—"An Act to authorize the Commissioner of the General Land Office to have the general indexes in said office transcribed."

STEPHENS, *Chairman.*

The unfinished business, being Senate Bill No. 216, "An Act to establish and provide for the support and maintenance of an efficient system of public free schools," was taken up.

Senate went into Committee of the Whole on consideration of the bill.

Senator Hobby called to the chair.

Senator Hobby, Chairman of the Committee of the Whole, reported that the Committee had had under consideration, for some time, Senate Bill No. 216, "The school bill," and had made considerable progress in the consideration of the same; and asked that they be permitted to sit again.

Senator Crain introduced a bill, entitled, "An Act regulating the venue in certain criminal cases."

Read by caption and referred to Judiciary Committee No. 2.

Senator Grace, Chairman of Committee on Enrolled Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bill have carefully examined, compared and found correctly enrolled Senate Bill No. 140, entitled, "An Act to provide for filling vacancies in the office of District Clerk and Constable." The same has been properly signed and presented to the Governor this day at 11:40 o'clock A. M. for his approval.

GRACE, *Chairman.*

Senator Stephens, Chairman of Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Engrossing Committee, to whom were referred Senate Bills Nos. 263 and 64, "An Act to prescribe the time of holding the District Court in the Twelfth Judicial District," and "An Act to validate certificates of acknowledgment of married women to deeds of conveyance, letters of attorney and other written instruments," have carefully examined and compared the same, and find them correctly engrossed.

STEPHENS, *Chairman.*

Senator Crain moved that the Senate adjourn until this evening, at 3:30 o'clock.

Senator Ford moved to amend by inserting, "9 o'clock to-morrow morning."

Carried.

The Senate adjourned until 9 o'clock A. M., to-morrow.

SIXTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, June 28, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

On motion of Senator Ledbetter, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Grace asked that the journals show that his absence of last Monday was because of official duties at the Lunatic Asylum. So ordered.

Senator Hobby, Chairman of Judiciary Committee No. 1, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred the petition of James W. Henderson, requesting an act of the Legislature, "allowing the Comptroller to audit his claim as one of the veterans, upon production of one witness, etc.," have considered the same, and instruct me to report it back to the Senate, and recommend that the prayer can not be granted, as such an act would be a special law, and the rights of the petitioner to a pension can be fully determined by the Comptroller under the act granting pensions to the surviving veterans of the Revolution which separated Texas from Mexico. HOBBY, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 83, "An Act to regulate the keeping and bearing of arms," and Senate Bill No. 51, "An Act to repeal Section 4 of an act entitled, 'An Act to regulate the keeping and bearing of deadly weapons,'" approved April 12, 1871, have instructed me to report the bills back to the Senate, and recommend that Senate Bill No. 83 do not pass, and that Senate Bill No. 51 do pass. HOBBY, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred House Bill No. 137, "An act to amend 'An Act to amend Article 11, of an act entitled, 'An Act concerning divorce, and alimony,'" approved January 6, 1841, approved May 27, 1873, have considered the same, and recommend its passage as amended:

In line 14 of the bill amend by adding after the word, "State," the following: "And in the county in which he or she resides at the time of the filing of the petition."

In line 16, after the word, "suit," insert, "and that may be instituted in the county in which either the plaintiff or defendant resides."

HOBBY, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill